

**TOWN OF ELSMERE
REVISED
COUNCIL MEETING MINUTES
JANUARY 14, 2010
COUNCIL CHAMBERS
6:30 p.m.**

CALL TO ORDER: Mayor Deborah A. Norkavage called the meeting to order at 6:30 p.m., and requested everyone to remain standing for a moment of silence after the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE:

Secretary, Councilwoman Personti announced the moment of silence is for two long time Elsmere residents who both passed away within the past week; Mario Scarpone and Edith Shockley.

ROLL CALL:

MAYOR	DEBORAH A. NORKAVAGE	PRESENT
1 ST DISTRICT	JOHN JAREMCHUK, JR.	ABSENT
2 ND DISTRICT	STEVEN BURG	PRESENT
3 RD DISTRICT	THOMAS S. NOVAK, JR.	PRESENT
4 TH DISTRICT	CHARLES MCKEWEN	PRESENT
5 TH DISTRICT	JOANN I. PERSONTI	PRESENT
6 TH DISTRICT	JOHN N. PASQUALE, JR.	PRESENT

Town Manager, John Giles – Present
Town Solicitor, Edward McNally – Absent
Lieutenant Christopher Workman – Present

Town Manager, John Giles stated for the record 1st District Councilman Jaremchuk was absent due to being out of the country. Also, Town Solicitor, Edward McNally phoned in advance to state he would not be in attendance for this evening's Council Meeting.

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Mayor and Council considered the approval of the Minutes of the December 10, 2009, Council Meeting.

ACTION: A motion was made by Councilwoman Personti to approve the Minutes of the December 10, 2009, Council Meeting, with no corrections. The motion was seconded by Councilman McKewen.

VOTE:

1st District Councilman Jaremchuk – Absent, 2nd District Councilman Burg – Yes, 3rd District Councilman Novak – Yes, 4th District Councilman McKewen - Yes, 5th District Councilwoman Personti - Yes, 6th District Councilman Pasquale – Abstain, Mayor Norkavage – Yes

Councilman Pasquale abstained from the vote due to being absent at the December 10, 2009, Council Meeting.

VOTE: 5 – 0, 1 – Absent, 1 – Abstained Motion carried

OLD BUSINESS:

Mayor and Council considered the approval of Ordinance 512, as amended.

An Ordinance amending Chapter 159 of the Code of the Town of Elsmere concerning solicitation.

ACTION: A motion was made by Councilman McKewen to accept Ordinance 512, as amended. The motion was seconded by Councilman Novak.

Mr. Giles stated Ordinance 512 was brought up once and approved. After approval, the attorney's office found a section that they had concerns about the constitutionality of, which they removed that section. Therefore, this was the only change from the initial Ordinance.

VOTE:

VOTE: 6 – 0, 1 - Absent Motion carried

NEW BUSINESS:

Mayor and Council presented a Proclamation to Mr. Patrick L. Giles and Mr. John P. Giles recognizing their heroic actions performed on December 17, 2009.

At this time, Secretary, Councilwoman Personti read for the record the Proclamations that were presented to Mr. Patrick L. Giles and Mr. John P. Giles.

At this time, Mayor Norkavage discussed her goals and objectives for the upcoming new decade.

Mayor and Council considered Petition 09-04.

A petition for a Minor Sub-Division of Tax Parcel 1900400356, also known as 209 Locust Avenue.

Mr. Giles explained the Planning Commission reviewed this petition and recommended approval of this application with the conditions that had been discussed and agreed to by all parties.

Councilman Novak apologized for not being present at the meeting due to his attending a funeral.

ACTION: A motion was made by Councilman Novak to approve Petition 09-04. The motion was seconded by Councilwoman Personti.

Mr. Giles stated Mayor and Council's action should be taken in the form of a Resolution, stating that Resolution 10-05 authorizes the sub-division in detail of Petition 09-04.

ACTION: A motion was made by Councilman Novak to approve Resolution 10-05. The motion was seconded by Councilwoman Personti.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered a number of requests from the Community Athletic League concerning the use of the Town's Baseball Fields.

At this time, there was a lengthy discussion between Mayor, Council, Town Manager and Mr. Greg Oldham, President of the Community Athletic League, who spoke on behalf of the number of requests concerning the use of the Town's baseball field's.

Mayor and Council agreed that the issue regarding locking the field would not be debated further at this evening's meeting and would be deferred until next month's meeting.

ACTION: A motion was made by Councilwoman Personti to approve the Community Athletic League's request as discussed in detail this evening regarding extending the infield approximately 15 feet, leveling the playing surface, changing the infield to a grass infield and that CAL will have the first option with the permits in reserving the fields' use.

Councilwoman Personti proceeded to amend her motion two more times then withdrew all motions.

ACTION: A motion was made by Councilwoman Personti to defer discussion on the issue until next month's Council Meeting. The motion was seconded by Councilman Pasquale.

VOTE:

1st District Councilman Jaremchuk – Absent, 2nd District Councilman Burg – No, 3rd District Councilman Novak – No, 4th District Councilman McKewen - Yes, 5th District Councilwoman Personti - Yes, 6th District Councilman Pasquale – Yes, Mayor Norkavage – No

VOTE: 3 – 3, 1 – Absent

Motion Failed

ACTION: A motion was made by Councilman Novak to deny all the recommendations and to defer to the permit process to the Town Manager to work out a solution to meet everybody's needs. The motion was seconded by Councilman Burg.

Mr. Giles remarked that in the past, a prior Mayor and Council unanimously told the Town Manager not to give the league permits, therefore, the Town Manager did not grant them permits. At the next Council Meeting the league showed up and that same Mayor and Council by unanimous vote voted to override the Town Manager's decision not to give them permits, and ended up giving them the permits.

At this time, Councilman Burg called the question.

VOTE:

1st District Councilman Jaremchuk – Absent, 2nd District Councilman Burg – Yes, 3rd District Councilman Novak – Yes, 4th District Councilman McKewen - Yes, 5th District Councilwoman Personti - No, 6th District Councilman Pasquale – Yes, Mayor Norkavage – Yes

VOTE: 5 – 1, 1 – Absent

Motion carried

Councilwoman Personti voted no out of respect for Mr. Giles comment.

ACTION: A motion was made by Councilman Novak to not charge the contractor the \$150.00 license fee. The motion was seconded by Councilwoman Personti.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mr. Giles asked Mayor and Council to deal with the little league through its President and not the other members or officers.

Mayor and Council considered a request to purchase a portable audio system to be used for meetings conducted at locations other than the Council Chambers.

Mr. Giles explained that Mayor and Council had approved in the Budget under Capital, a recording system for the Council Chambers. He requested a price from Tom Mitten for the Council Chambers, and in doing so, Mr. Mitten supplied him with a price for both portable system and the system for the Council Chambers. The amount of the proposal is under the amount that requires a public bid, therefore, Mr. Giles decided to not have a bid process and to allow Mr. Mitten do the work. Regarding the proposal that Mr. Mitten submitted to Mr. Giles

pertaining to the portable system, he contacted Mr. McNally who agreed they are two separate systems, therefore, can be considered two separate proposals. Mr. Giles further asked for Mayor and Council's approval to also purchase the portable system since it wasn't previously approved.

Mr. Tom Mitten explained in detail how the audio recording system works.

ACTION: A motion was made by Councilwoman Personti to spend \$4,525.00 from the Capital Budget to purchase a portable audio system for the Town. The motion was seconded by Councilman Burg.

VOTE:

VOTE: 6 – 0, 1 - Absent Motion carried

Mr. Giles asked Mayor and Council to consider discussing at this time item number twelve of the Agenda.

ACTION: A motion was made by Councilman Novak to move Item #12 under New Business to this point in the meeting. The motion was seconded by Councilman Pasquale.

VOTE:

VOTE: 6 – 0, 1 - Absent Motion carried

Mayor and Council considered a proposal received to provide Town Wide towing services.

George and Katharine (Beth) Morris, Owners of First State Towing & Recovery, explained to Mayor and Council their interest in towing for the Town of Elsmere. She further explained they would pay to the Town of Elsmere \$50.00 for every vehicle towed by them.

Mr. Giles stated the Town does not currently have an active contract with anyone for towing. He further stated that under the Abandoned Vehicle Ordinance it states the Chief of Police Department will determine who the tow company is. Mr. Giles spoke with Lieutenant Workman about this and he agreed if Mayor and Council wanted to decide who the Town Wide tow service company would be. Mr. Giles suggested to Mayor and Council if they decided to go with First State Towing, to meet with the owners and come up with a contract for that service.

ACTION: A motion was made by Councilman Pasquale for the Town of Elsmere use First State Towing as described in the letter provided, barring any contract with Harold's until July 2010, for one year, then renegotiate whatever contract they come up with First State Towing on a yearly basis. The motion was seconded by Councilman Novak.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered the proposals received for the replacement windows and the potential awarding of a contract for those services.

Finance Director, Joseph Schulcz gave a brief update on the proposals that were received by P.J. Fitzpatrick and Dave Hall, for the replacement windows.

ACTION: A motion was made by Councilman Novak to approve Dave Hall to install the windows contingent on them verifying the two stairwell windows cost is \$3,550.00, and that all the wood would be covered with vinyl. The motion was seconded by Councilman Pasquale.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

ACTION: A motion was made by Councilman Novak to authorize Dave Hall to complete the windows as long as it doesn't exceed the grant. The motion was seconded by Councilwoman Personti.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered the proposals received for Town Wide Landscaping Services and the potential awarding of a contract for these services.

Finance Director, Joseph Schulcz reported five bids were received regarding Town Wide Landscaping Services with Tree, Inc. being the lowest proposal received.

Mayor and Council requested for references to be validated, therefore, this would be discussed at next month's meeting.
At this time, there was a ten minute recess.

Mayor and Council considered Resolution 10-01.

A Resolution adopting an "Official Town Map".

Mr. Giles explained the differences between the two maps that were displayed.

ACTION: A motion was made by Councilman Pasquale to approve Resolution 10-01, which adopts a revised Official Map of the Town of Elsmere, for the purpose of conserving and promoting the public health, safety and general welfare.

VOTE:

VOTE: 6 – 0, 1 - Absent Motion carried

Mayor and Council considered Resolution 10-02.

A Resolution adopting an "Official Town Seal".

VOTE: A motion was made by Councilman Pasquale to approve Resolution 10-02, which adopts the Official Seal of the Town of Elsmere, with the correct date of March 9, 1909. The motion was seconded by Councilwoman Personti.

VOTE:

VOTE: 6 – 0, 1 - Absent Motion carried

Mayor and Council considered Resolution 10-03.

A Resolution authorizing the Town Manager to enter into an agreement with Official Payments Corporation which would allow citizens to pay certain fees via credit card.

Mr. Giles explained this would give the citizens the ability to pay Town bills via credit cards. He further mentioned the third party company named in this Resolution is also used by several other municipalities in the State. Mr. Giles proceeded to explain how the procedure would work and would like to enter into an agreement with them to provide this service to us.

ACTION: A motion was made by Councilman Burg to approve Resolution 10-03, which will allow citizens who owe fees or debts to the Town to pay that fee or charge to the Town by credit card through Official Payments Corporation, whereas, the Town would not pay any fee associated with the use of the credit card, and any fee would be charged to the citizen by Official Payments Corporation and paid to the credit card company by the Official Payments Corporation. The Town would receive only the exact amount due to the Town. The motion was seconded by Councilman Novak.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered Resolution 10-04.

A Resolution setting the fees to be charged for permits and other Code Enforcement Office services.

Mr. Giles explained he intends to enter into an agreement with Building Inspection Underwriters to perform the technical services needed in the Code Office until we hire. He further explained how he came up with the fee structure.

Councilwoman Personti expressed her concerns regarding the Town Manager “position” having the authority to change a fee and then not make Mayor and Council aware of it until the following month.

A discussion took place regarding the removal of the last paragraph on Page 2 of Resolution 10-04, starting with “Be it further resolvedscheduled meeting”.

ACTION: A motion was made by Councilman Pasquale to introduce Resolution 10-04, which sets the fees that will be charged by the Code Enforcement Office for permits and other Code Enforcement services, and does not give authority to the Town Manager to change and fees, and so that any of the fees when needed and requires the Mayor and Council to be the persons to determine that. Also, on page 2, strike out the second to the last paragraph that begins with “Be it further and ends with schedule meeting”. The motion was seconded by Councilwoman Personti.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered a request by the Town Manager and Public Safety Department to authorize 40 hours of pay to each employee in order to correct a long standing issue with the proper payment of the Town's employees.

Mr. Giles explained to Mayor and Council the situation on how the full time employees have been paid in the past. He further requested Mayor and Council to authorize forty (40) hours of regular pay to the employees. No one would actually receive a check for the forty (40) hours, but actually the pay period would be adjusted to put it back where it should be.

ACTION: A motion was made by Councilman Novak at the Town Manager's request to authorize forty (40) hours of pay to each employee to correct the long standing issue with the proper payment of the Town's employees. The motion was seconded by Councilman Burg.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered a request by the Town Manager to add to the Town of Elsmere Pay Scale for Non-Police Personnel a pay grade 19A.

Mr. Giles explained his reasoning of his request for adding a Pay Grade 19A which is basically due to the job description being modified to more accurately reflect the responsibilities of the job. He further stated he does not intend right now to move the current position to this position but may be brought up at budget time. Mr. Giles also stated when you move this position it takes it out of FLSA and makes it FLSA Exempt, which means they wouldn't be paid more than what their salary is no matter how many hours more they work.

ACTION: A motion was made by Councilman Pasquale to allow the Town Manager to create a new job title of Pay Grade 19A. The motion was seconded by Councilman Burg.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

Mayor and Council considered Ordinance 514.

An Ordinance amending Chapter 225-9 (D) of the Code of the Town of Elsmere concerning actions by the Planning Commission.

Councilman Burg explained the situation concerning the Planning Commission not having enough time once the applicant applies, which is forty-five (45) days since it goes directly before the Board of Adjustments right after that. What is being asked is that the Planning Commission have the forty-five (45) days not start until they have their meeting.

Mr. Giles explained Ordinance 514 states the applicant has to detail what the actual hardship is.

ACTION: A motion was made by Councilman Burg to accept Ordinance 514 known as the First and Second Reading of the Ordinance. The motion was seconded by Councilman Novak.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

DEPARTMENTAL REPORTS:

Code Enforcement:

Mr. Giles commented that by entering into the agreement with the Building Inspectors and the fee structure, he believes this would be sufficient while seeking to hire a Code Officer. He will be conducting interviews next week for the seven (7) qualified applicants who applied for the position. He further mentioned Public Works would be using one of the Code trucks since there is only one Code Officer at this time.

Finance:

Reported progress. Also, Mr. Giles stated he would get back to Mayor and Council regarding the bids.

Mayor Norkavage expressed her thanks for receiving the spreadsheet regarding the Red Light Camera and the agreement.

Mr. Giles mentioned everything was provided to the Finance Committee the home ownership assignment from Council

Public Safety:

Lieutenant Workman reported on cost savings that were made in making the tow stickers for vehicles that are towed or stored. He further stated the SOP had been revised to state the officer would place this sticker on the windshield of the vehicle when it is towed.

Lieutenant Workman reported on the eligibility of Officers Andrew Davis and Kevin Kerrigan for promotion to Patrolman First Class, and salary increases that would be due pending satisfactory yearly evaluations. He further stated the impact to the salary line item for the police department would be approximately \$3,800.00.

Mayor Norkavage read an excerpt from the Minutes of the June 2009 Council Meeting which showed that a motion was made by Councilman Jaremchuk and resulted in a unanimous vote that there would be no promotions.

Councilwoman Personti requested for next month's meeting a Finance breakdown be supplied of the entire budget for where it stands.

Lieutenant Workman reported a Golf Outing to benefit the Elsmere Needy Family Fund would be held at White Clay Creek on April 23, 2010, with more details to follow.

Lieutenant Workman further reported on the following issues. 1. Alarm violations will begin again as of January 1, 2010. 2. The completion of the Patrol Room is due to be completed by the end of January, and Open House will be scheduled around the first of February for Mayor and Council. 3. Stephen West has resigned and was replaced by Teresa Lord. 4. 190 traffic warnings were given out during the duration of the cell phone warning period. 5. Handicapped renewal applications continue to come in steadily. 6. The speed trailer has been delivered and is operational. 7. Harold's Towing donated \$300.00 to the Elsmere Needy Family Fund. 8. Adrenaline Skating Center's outstanding fees for police extra duty services dating back as far as May 2009.

Mr. Giles reported on the disorderly establishment case at the Adrenaline Skating Center, which he stated when Ordinance 506 that pertains to having a special license as an entertainment club, which went into effect September 10, 2009. However, the Code Office never notified them making them aware they needed to apply for a new license. They have until February 17, 2010, by 5:00 p.m., or else they would need to immediately cease and desist operating the Adrenaline Skating Center. At this time further conversation took place regarding this issue.

Public Works:

Mr. Giles reported on the new dump truck which should be delivered within the next two to three weeks.

Town Manager's Report:

Mr. Giles reported on the following: 1. Tina Law and Diana Poole will be attending training in Florida for a six day National Hurricane Conference. 2. To put on the next month's Agenda a modification to the Personnel Policy to allow employees up to a maximum four (4) hours a month to provide volunteer services. After some discussion Mr. Giles stated he would look further into his request and would bring it up at a later time.

Lieutenant Workman reported on the Delmarva employees concerning what they will be driving and wearing, in case Mayor and Council receive phone calls from their constituents.

Items Submitted by Mayor and Council:

Councilman Pasquale thanked Town Manager, John Giles for coming out to his and two adjoining neighbors properties to look into the water issue between Alfred Avenue and Marvillo Avenue.

Councilman Pasquale and Mayor Norkavage expressed their concerns regarding the street sweeper and the costs to maintain it.

Councilman Novak reported the drainage project is complete in his district, and further stated it was well worth the wait.

ADJOURNMENT:

ACTION: A motion was made by Councilwoman Personti to adjourn. The motion was seconded by Councilman Pasquale.

VOTE:

VOTE: 6 – 0, 1 - Absent

Motion carried

At this time the meeting was adjourned.

These minutes summarize agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tapes may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

**DEBORAH A. NORKAVAGE
MAYOR**

**JOANN I. PERSONTI
SECRETARY**